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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/806,431 | 06/28/2001 | Paul John O'Keeffe | 01-389 | 1161 |

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EXAMINER

RUDDOCK, ULA CORINNA

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

1771

DATE MAILED: 09/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 09/806,431 | O'KEEFFE, PAUL JOHN | |
| | Examiner | Art Unit | |
| | Ula C Ruddock | 1771 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 02 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The Examiner has carefully considered Applicant's amendments and accompanying remarks filed July 2, 2003. The rejection of Hahn et al. has been overcome by the present amendment.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 2, 4-6, 9, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0032793 (EP '793). EP '793 discloses a cleansing article made of a web coated with a cleansing agent (page 5, ln 23-27) comprising silicone oils and waxes (page 14, ln 31) and mineral oil (page 15, ln 10). The cleansing article provides a mitten-like article (claim 10). It is the Examiner's position that the cleansing article of EP '793 would be compatible with a protective glove because it uses the same chemical composition required in the present invention.

EP '793 fails to disclose that a portion of the moisturizing cream is transferred to the skin prior to applying the glove. It is the Examiner's position that it would have been obvious to one having ordinary skill in the art at the time the invention was made to have applied the moisturizing cream of EP '793 prior to the application of a latex glove,

motivated by the desire to create a moisturizing protective barrier between the glove and the wearer's hand.

With regard to claim 9, it should be noted that optimizing the amount of moisturizer is a result effective variable. For example, the greater the amount of moisturizer, the greater the moisturizing effect of the wipe. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have used a substrate that is impregnated with up to 4 times its weight in moisturizing cream base, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F. 2d 272, 205 USPQ 215 (CCPA 1980). In the present invention, one would have optimized the moisturizer amount motivated by the desire to obtain a wipe with increased moisturizing capabilities.

4. Claims 1, 2, and 4-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sine et al. (US 6,183,766). Sine et al. disclose compositions for sanitizing and moisturizing skin surfaces (abstract). The conditioning agents comprise cholesterol (col 3, ln 15), jojoba oil (col 3, ln 57), and vitamin E (col 15, ln 40). The compositions can be incorporated in the form of treated wipe (col 16, ln 35), preferably in the form of hydroentangled, i.e. nonwoven, web substrates (col 16, ln 52). It is the Examiner's position that the topical formulations of Sine et al. would be compatible with a protective glove because it uses the same chemical composition required in the present invention. It should be noted that the composition of Sine et al. is suitable for use in leave-on or rinse-off products (abstract).

Sine et al. fail to disclose that a portion of the moisturizing cream is transferred to the skin prior to applying the glove. It is the Examiner's position that it would have been obvious to one having ordinary skill in the art at the time the invention was made to have applied the moisturizing cream of Sine et al. prior to the application of a latex glove, motivated by the desire to create a moisturizing protective barrier between the glove and the wearer's hand.

With regard to claim 9, it should be noted that optimizing the amount of moisturizer is a result effective variable. For example, the greater the amount of moisturizer, the greater the moisturizing effect of the wipe. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have used a substrate that is impregnated with up to 4 times its weight in moisturizing cream base, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F. 2d 272, 205 USPQ 215 (CCPA 1980). In the present invention, one would have optimized the moisturizer amount motivated by the desire to obtain a wipe with increased moisturizing capabilities.

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over EP '793, as set forth above, in view of Weinstein (US 5,961,500). EP '793 discloses the claimed invention except for the teaching that the article is sterile.

Weinstein discloses a disposable wipe coated with a dermatological fluid (abstract). The prewetted wipe is also sterile (col 1, ln 63). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have made the wipe of EP

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'793 sterile, as shown by Weinstein, motivated by the desire to create a wipe that has been maintained in a sterile environment.

6. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sine et al. (US 6,183,766), as set forth above, in view of Weinstein (US 5,961,500). Sine et al. disclose the claimed invention except for the teaching that the article is sterile.

Weinstein discloses a disposable wipe coated with a dermatological fluid (abstract). The prewetted wipe is also sterile (col 1, ln 63). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have made Sine's wipe sterile, as shown by Weinstein, motivated by the desire to create a wipe that has been maintained in a sterile environment.

Response to Arguments

7. Applicant's arguments filed July 2, 2003, have been fully considered but they are not persuasive for the reasons set forth. Applicant argues that EP '793 and Sine et al. fail to disclose application of the moisturizing cream prior to the application of a latex glove. This argument is not persuasive because as shown above, it is well within the level of one having ordinary skill in the art to have applied the moisturizing cream of either EP '793 or Sine et al. prior to the application of a latex glove, motivated by the desire to create a moisturizing protective barrier between the glove and the wearer's hand. Applicant further argues that there is no teaching or suggestion that the wipe of Sine et al. can contain little or no moisture. This argument is not persuasive because water is an optional component

in the composition of Sine et al. (col 2, ln 15), which disclose 0 to 60% water, thus meeting Applicant's limitation of little or no moisture.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ula C Ruddock whose telephone number is 703-305-0066. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

UCR

ucb

Ula Buddock